



**DEPARTMENT OF CORRECTIONS
MONTANA STATE PRISON
OPERATIONAL PROCEDURE**

Procedure No.: MSP 3.4.101- RESTRICTED	Subject: INFORMANT INFORMATION REPORTS
Reference: DOC Policy No. 3.4.1	Page 1 of 5 , plus one attachment
Effective Date: March 31, 2008	Revision Date:
Signature / Title: /s/ Mike Mahoney / Warden	

I. PURPOSE:

To implement a system to maintain the confidentiality of Informant Information Reports, ensuring the proper application of a set of rules, regulations, and filing procedures. Staff will not provide an inmate with, or let an inmate view, an Informant Information Report or any other confidential information that may jeopardize the safety of others or the security of the facility.

II. DEFINITIONS:

Disciplinary Hearing Investigator (DHI): the staff member designated to conduct investigations into inmate rule infractions submitted as inmate disciplinary reports.

Disciplinary Hearing Officer (DHO): the staff member designated to conduct inmate disciplinary hearings.

Evidence: information presented at a disciplinary hearing which supports or refutes the charges.

Evidence may consist of one or more of the following:

1. The disciplinary report. The disciplinary report alone may serve as the basis for the decision.
2. Oral testimony, eyewitness accounts, or other personal knowledge.
3. Physical evidence.
4. Inmate's statement or testimony.
5. Witness or document evidence.
6. Hearsay evidence if it appears reliable and relevant to the alleged infraction.

Housing Unit Disciplinary Team (HUDT): a one or two member team of unit staff appointed by the Unit Manager to conduct minor infraction disciplinary hearings or Waiver of a Hearing/Agreement.

Major Infraction: a misconduct violation that, in the judgment of the investigating staff member, is considered more serious than a minor infraction. Major infractions may be violations of state or federal criminal law.

Minor Infraction: a misconduct violation that does not have serious inmate and institutional management implications.

Pre-Hearing Confinement (PHC): placement of an inmate who constitutes a threat to staff, other inmates, himself, or facility security in a designated cell pending a disciplinary hearing or classification review.

III. PROCEDURES

A. General

1. Staff will implement the inmate disciplinary and/or reclassification procedures whenever they have a reasonable belief that an inmate has violated an institutional rule or law.

- a. For minor and major rule infractions, the staff member must complete and file a *Disciplinary Infraction Report form*. The staff member who writes the report will note the evidence gathered from an investigation into the incident and used to determine the infraction occurred.
 - b. For reclassification, unit staff must complete and process the required classification documents that document the reason(s) why they are changing the inmate's custody.
 2. When an inmate gives a staff member verbal or written information that something happened, or is going to happen, the staff member **should not use**, nor rely upon, that information to file a disciplinary infraction or classification report **when** other independent information is available to support the same finding as is supported by the confidential information. Just because there has been an informant who has opened up an investigation, or who has been part of an investigative process, does not mean that the informant, or the fact that the investigation was conducted due to intelligence from an informant, must be noted on the disciplinary infraction report, disciplinary findings report, or classification report. As long as there is **at least one other fact** or independent piece of evidence to rely on, that is the only thing that needs to be noted.
 3. A piece of evidence that shows that the inmate more likely than not committed the alleged infraction is sufficient for writing a disciplinary report and a finding that the inmate is guilty of the alleged infraction or engaged in the behaviors that necessitated reclassification.
 4. An inmate who is reasonably believed to be a security risk, in serious danger from others, or poses a danger to himself or others may, upon written statement of reasons, be placed in Pre-hearing Confinement (PHC) pending a disciplinary hearing or classification review. However, staff may not place an inmate suspected to have committed a rule infraction in PHC based solely on information obtained from a single inmate informant without first determining whether or not there is some other evidence to support that informant's allegations.
 5. The only time a staff member needs to complete an *Informant Information Report form (attachment A)* for a disciplinary or classification report is when the **only** thing they have for reclassifying and/or citing the inmate for a rule infraction is information from an involved inmate, an inmate witness, or an inmate informant.
- B. Crime Related Information:
- When an informant's information may be utilized in a criminal prosecution, the following procedure will be implemented:
1. Staff must fill out an *Informant Information Report form* and attach it to the incident report filled out by the staff member concerning the information provided and/or the document the inmate submitted.
 2. Staff will bring the completed form and documents to the Shift Commander who will ensure it is securely placed in the Investigator's evidence locker.
 3. Investigators/designees are responsible for conducting periodic audits of files to ensure the documentation has been processed in compliance with policy and appropriate evidentiary procedures.

C. Disciplinary Related Information

1. Disciplinary hearings for minor disciplinary infractions are conducted by the HUDTs. Upon concluding the hearing the HUDT must complete a *Disciplinary Hearing Decision form*, noting the evidence that was relied upon to make their finding, the reason(s) for the finding, and the reason(s) for the sanctions imposed.
2. Investigations
 - a. Disciplinary infraction report forms have spaces to list 'staff witnesses' or 'involved inmates'.
 - 1) Staff members who are listed as witnesses are to file incident reports that are to be attached to the infraction report. If these reports aren't submitted with the infraction report, the DHI will take steps to get them.
 - 2) If the infraction report lists 'involved inmates' the DHI will contact the person who wrote the report and ask if these inmates were also written up or are potential witnesses. If the 'involved inmates' are potential witnesses the DHI may interview them regarding the incident, but must maintain written records of the interviews.
 - b. The only time the DHI will require an *Informant Information Report form* from staff is when the **only** thing noted in the infraction report as evidence relied on for citing the inmate for the rule infraction is information from an involved inmate, an inmate witness, or an inmate informant.
 - 1) As long as there is **at least one other piece of** evidence noted the DHI will not require an *Informant Information Report*.
 - 2) If the **only** thing the staff member notes in the infraction report as evidence relied on for citing the inmate for the rule infraction is information from an involved inmate, an inmate witness, or an inmate informant the DHI will ensure that the staff member has submitted an *Informant Information Report* along with the infraction report.
 - c. The DHI will collect witness statements if the accused is in PHC and submits a list of witnesses.
3. Major Hearings
 - a. Inmate or staff witness testimony may be presented in writing.
 - b. The DHO will ensure the accused (or any other inmate) is not present when inmate informant or other confidential information is reviewed or presented.
 - c. Evidence, testimony, questions, and examination are to be limited to **facts** relevant to the alleged infraction(s).
 - d. The DHO may find the inmate guilty based solely on **verified** confidential information from a reliable source whose identity is not disclosed to the accused inmate. Such information may be presented to the DHO verbally or in writing, subject to the following conditions:
 - 1) When the DHO considers such information, the name of the source and details will only be given to the DHO when the accused inmate is not present.

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- 2) The DHO will not disclose the source of the information to the accused inmate, and may only disclose some details if doing so will not create a risk to the safety of others.
- 3) If the DHO considers information from an informant, he/she must maintain a confidential record containing the details of the information and an *Informant Information Report*.
- 4) The DHO will make a finding as to the reliability of the confidential information by reviewing the *Informant Information Report* that has been completed by the reporting staff member.

D. Classification Related Information

Classification reviews are conducted by the respective housing unit staff, and the inmate is provided an opportunity to appear at the review and provide input.

1. Housing unit staff must complete the required classification forms noting the information they relied upon to make their decision.
2. An inmate may be reclassified to a higher custody based on verified confidential information from a reliable source whose identity is not disclosed to the inmate. Such information may be used, but is subject to the following conditions:
 - a. When unit staff considers such information, the details and the name(s) of the source will not be disclosed to the inmate.
 - b. In all cases in which this information is used, staff must maintain a confidential record containing the details of such information and an *Informant Information Report*.
 - c. Unit staff will make a finding as to the reliability of the confidential source(s) by reviewing the *Informant Information Report(s)* that has been completed by the reporting staff member.

E. Tracking Numbers and Report Distribution

1. The staff member who fills out the *Informant Information Report* form will enter a "Tracking Number" in the space provided to the right of the facility identification information at the top of the form.
 - a. The tracking number used will start with the acronym for the facility where it was written (eg. MSP, MWP, GFRP, DCCF, CCC, MASC, etc.).
 - 1) If the report is for possible criminal investigation, an 'I' will be the next letter (eg. MSP I # # # # #). These reports will be forwarded to the facility criminal investigations office.
 - 2) If the report is for an inmate disciplinary infraction, a 'D' will be the next number (eg. MSP D # # # # #). These reports will be forwarded to the facility inmate disciplinary office.
 - 3) If the report is for classification a 'C' will be the next number (eg. MSP C # # # # #). These reports will be forwarded to the facility classification office.
 - b. The staff member will also note this tracking number on the classification, disciplinary, or incident report written in connection to the *Informant Information Report*. This will enable authorized staff, with a demonstrated need to know, to

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contact the respective filing area to make arrangements to view the informant information report.

2. Staff from the respective office will file these forms according to the tracking number, with the ability to cross reference them with the involved inmate's name or ID#. The reports must be filed in a locked file cabinet outside the secure perimeter of the facility or an office that is off limits to inmates.

F. Training

Training, disciplinary, and classification staff will facilitate a session on the current inmate disciplinary and classification operational procedures in pre-service and refresher staff training. This training will include investigative procedures and how to handle intelligence information from an inmate.

IV. CLOSING

Questions concerning this operational procedure will be directed to the Warden or designee.

V. ATTACHMENTS

Informant Information Report form

Attachment A

CONFIDENTIAL

STATE OF MONTANA DEPARTMENT OF CORRECTIONS

MSP ☐ MWP ☐ CONTRACT FACILITY: _____ TRACKING NO: _____

INFORMANT INFORMATION REPORT

Name and ID# of charged inmate: _____

Name and ID# of Confidential Informant: _____

Staff member presenting informant information: _____

Informant is found: ☐ reliable ☐ not reliable

If reliable, the basis of finding was *(place a check in all appropriate sections)*:

- ☐ Source has previously provided information that was proven to be true.
☐ Source successfully took and passed the polygraph examination.
☐ Informant's information was corroborated by other information (specify): _____

- ☐ Source incriminated himself/herself in a rule infraction when providing the information.
☐ Portions of the information provided by the informant have already been proven to be true.
☐ Other (explain): _____

Informant's information is: ☐ credible ☐ not credible

If credible, indicate reason(s) *(place a check in all appropriate sections)*:

- ☐ Eyewitness.
☐ Information is detailed.
☐ Reasons checked above for reliability (specify): _____

Note: providing prior reliable information is not grounds for supporting the credibility of the current information.

☐ Other (specify) _____

Summary of informant information [attach additional sheet if necessary]:

Names and other details of informant information providing the basis for findings regarding reliability and credibility may be obtained in the following location(s):

(Date)

(Printed Name)

(Signature)

